

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

GREGORY GILLIAN,

Plaintiff,

VS.

JOHN SCOTT GARMON,

Defendant.

:
:
:
:
:
:
:
:
:
:
:

**CIVIL ACTION FILE
NO. 1:06-CV-175 (WLS)**

NOTICE OF FILING OF MOTION TO DISMISS

Defendant Garmon has filed a motion seeking dismissal of the above-styled action alleging that plaintiff has amassed “three strikes” pursuant to the Prison Litigation Reform Act and that he should therefore be precluded from proceeding in this action *in forma pauperis*. Defendant further alleges that plaintiff’s complaint should also be dismissed for his failure to exhaust his administrative remedies as required by the Prison Litigation Reform Act before seeking relief in Federal Court. The plaintiff is advised of his opportunity to respond to the Defendant’s motion to dismiss pursuant to the dictates of the following notice:

Since plaintiff is proceeding *pro se*, the court deems it appropriate and necessary to advise him of his right to respond to said motion and of the consequences which he may suffer if he fails to file a response thereto.

Plaintiff is advised that:

- (1) a MOTION TO DISMISS has been filed herein by Defendant Garmon;
- (2) plaintiff has the right to oppose the granting of said motion; and
- (3) if plaintiff fails to oppose said motion, his complaint may be dismissed.

Plaintiff is further advised that under the procedures and policies of this court, motions to dismiss are normally decided on briefs. The court considers the pleadings and briefs filed by the parties in deciding whether dismissal is appropriate under the law.

FAILURE OF THE PLAINTIFF HEREIN TO RESPOND TO THE MOTION TO DISMISS MAY RESULT IN THE GRANTING OF THE MOTION. Upon the recommendation of the Magistrate Judge, the District Judge could then grant the motion to dismiss. There would be no trial or further proceedings herein.

Accordingly, the plaintiff may file a response to said motion to dismiss **WITHIN TWENTY(20) DAYS OF RECEIPT OF THIS ORDER.** Thereafter, the court will consider the motion and any opposition to same filed by the plaintiff.

SO NOTICED, this 30th day of January 2007.

/s/ *Richard L. Hodge*
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE